

CRIMINAL CASE NO. 1:04-cr-00043-MR-4
CRIMINAL CASE NO. 1:17-cr-00035-MR-WCM-1

Defendant.

In May 2005, the Defendant was convicted of conspiracy to manufacture and to possess with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846. [Doc. 171]. She was sentenced to a term of 151 months' imprisonment and five years of supervised release. [Id.]. In July 2017, the Defendant's term of supervised release was revoked, and she was sentenced to a term of 30 months' imprisonment and an additional 30 months of supervised release. [Doc. 361]. In December 2017, the Defendant was sentenced in a separate criminal case to a term of 84

months' imprisonment after pleading guilty to two counts of possession with intent to distribute methamphetamine. [Criminal Case No. 1:17-cr-00035-MR-WCM, Doc. 20]. The Defendant now moves for a reduction of her sentences in both criminal cases pursuant to Section 404 of the First Step Act of 2018.

The First Step Act of 2018, Pub. L. 115-391, was signed into law on December 21, 2018. Section 404 of the Act gives retroactive effect to the changes made by Sections 2 and 3 of the Fair Sentencing Act of 2010. Section 404(a) defines a "covered offense" as "a violation of a Federal criminal statute, the statutory penalties for which were modified by Section 2 or 3 of the Fair Sentencing Act of 2010 . . . , that was committed before August 3, 2010." Sections 2 and 3 of the Fair Sentencing Act of 2010 increased the quantity of cocaine base required to trigger the enhanced penalties of 21 U.S.C. § 841 and eliminated the mandatory minimum for simple possession of cocaine base under 21 U.S.C. § 844(a).

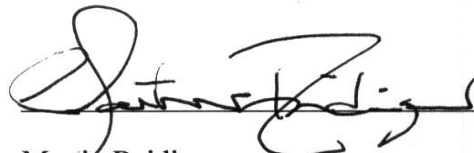
Here, the Defendant has pled guilty to and was convicted of charges involving methamphetamine, not cocaine base. Moreover, her possession charges in Criminal Case No. 1:17-cr-00035-MR-WCM occurred well after the enactment of the Fair Sentencing Act of 2010. Accordingly, the Defendant is not eligible for relief under Section 404 of the First Step Act

because she has not been convicted of a “covered offense” under Section 404(a)’s definition.

Accordingly, **IT IS, THEREFORE, ORDERED** that the Defendant’s “First Step Act (FSA) Sentence Reduction Motion” [Criminal Case No. 1:04-cr-00043-MR-4, Doc. 379; Criminal Case No. 1:17-cr-00035-MR-WCM-1, Doc. 25] is **DENIED**.

IT IS SO ORDERED.

Signed: March 11, 2020


Martin Reidinger
United States District Judge

